



Speed claims in broadband advertising

Ofcom response to Committee of Advertising Practice (CAP) and
Broadcast Committee of Advertising Practice (BCAP) Consultation

13 July 2017

Ofcom response to consultation on speed claims in broadband advertising

We support a change to the way broadband speeds are advertised

- 1.1 Ofcom is the regulator of the UK's communication sector. We regulate telecoms markets as well as broadband, broadcasting, radio spectrum and postal markets. This is Ofcom's formal response to CAP/BCAP's consultation and is without prejudice to Ofcom's formal powers under the Communications Act 2003.
- 1.2 Ofcom has a number of initiatives aimed at helping consumers make informed choices about their broadband services. Notably, we have put in place two Voluntary Broadband Speeds Codes of Practice, one for residential services and one for business services ('the Broadband Speeds Codes'). Companies signed up to the codes must provide accurate and transparent speed information on broadband services at point of sale, manage customers' speed-related problems, and allow customers to exit the contract without penalty if speeds fall below a minimum threshold.¹
- 1.3 We are currently revising the Broadband Speeds Codes with industry to ensure that consumers are given more realistic and targeted speed information. As part of our work with industry to revise the Broadband Speeds Codes, we are considering moving to estimates of peak-time speeds² at point of sale. We will consult on our proposals in the autumn. We think it is likely that consumers will find it easier to understand their potential speed if the basis for the advertised speed and the point of sale speed estimates are consistent. This is especially relevant for the minority of consumers who will receive considerably slower than headline speeds.³
- 1.4 However, while in principle we think that a consistent approach to speed claims would help consumers, we recognise that consumers use information from advertising, where they are often seeking to compare different services, differently to information at point of sale, where they need to know the speeds that they can expect to receive if they take a specific service. Therefore, we support alignment between the guidance and the Broadband Speed Codes where this works best for consumers, but recognise that there may be some metrics for which different approaches are needed.
- 1.5 We welcome the Committee of Advertising Practice (CAP) and Broadcast Committee of Advertising Practice's (BCAP's) review of its guidance on the use of speed claims in broadband advertising. We agree that changes to the way broadband speeds are advertised are needed; it is vital that consumers have clear and accurate information on broadband performance to help them make informed choices about their communications services.

¹ <https://www.ofcom.org.uk/phones-telecoms-and-internet/information-for-industry/codes-of-practice>

² i.e. speeds experienced at the time of day when network usage is highest.

³ Our UK Home Broadband Performance Report shows that while many consumers receive actual speeds that are similar to their service's advertised speed, a minority of consumers receive speeds that are considerably below it.

Peak-time speeds better reflect consumer experience of broadband

- 1.6 Peak-time speeds are likely to be the most meaningful and relevant speed measure for most consumers, as peak-time is when consumers are most likely to be using their service. It is also when consumers are most likely to experience a slowdown in their service.
- 1.7 The speeds delivered by fixed broadband connections vary by time of day, with speeds slowing down during busy periods when traffic volumes on ISPs' networks are highest.⁴ As peak-time is when traffic volumes are highest, and consumers are most likely to be using their service, it provides a better indication of the actual speeds consumers are likely to experience. In addition, as peak-time speeds tend to be the lowest ones that a consumer will get, this would help manage a consumer's expectation of the service they would receive.
- 1.8 When recommending the use of peak-time speeds, we recognised that:
- Some technologies suffer from peak-time slowdown more than others, for instance cable networks. However, the impact of a change to peak-time speed information in adverts for those technologies is mitigated by the fact that the speeds they achieve throughout the day are still consistently higher than those of other widely available technologies.
 - Using peak-time speeds will mean that the full potential of some packages, such as maximum speeds or speeds during other hours in the day, will not be displayed. In turn this would not reflect the experience of consumers who would use their service in quieter times. However, on balance, we believe that consumers are less likely to be disappointed by the actual performance of their service if they under-estimate rather than over-estimate the speeds they are likely to get.

Our preference is for median point rather than range for advertising

In the context of advertising, median speeds are the most accessible measure for consumers.

- 1.9 We note from the ASA research that speed is an important factor for a significant proportion of consumers who are making decisions between providers.⁵ We recognise that some consumers find comparing different service offerings confusing,⁶ and that most are unaware of the actual speeds that they receive.⁷ Greater simplicity is therefore likely to help consumers when comparing speed claims.

⁴ See our analysis of SamKnows speed data in the *UK Home Broadband Performance Report*: https://www.ofcom.org.uk/data/assets/pdf_file/0015/100761/UK-home-broadband-performance.-November-2016-Technical-report.pdf

⁵ CAP and BCAP's *Consultation on speed claims in broadband advertising*, page 18, <https://www.asa.org.uk/resource/consultation-on-speed-claims-in-broadband-advertising.html>

⁶ Our 2016 switching tracker research found that 5% of consumers said they were not interested in changing their fixed broadband provider because it was difficult to make comparisons between providers (Q19d) and 20% of consumers found it difficult to make broadband speeds comparisons between providers (Q125).

⁷ Our H1 2016 technology tracker research found that 73% of those with fixed broadband in the home did not know their advertised speed (QE23) and 76% of those with fixed broadband did not know their actual speed

- 1.10 For most consumers, we believe a median point will be an easier measure to compare than an 20th to 80th percentile range, offering, as it does, a single number rather than two figures. It may be unclear to consumers which figures to compare in a range, especially if the ranges in different speed claims overlap or if the ranges are large.
- 1.11 We recognise that a range would have the advantage of highlighting to consumers that providers do not know for certain what speeds an individual consumer would receive. However, on balance, we think that the simplicity of a median speed measure is more helpful to consumers who want to compare broadband services.

Relationship with the Broadband Speeds Codes

- 1.12 Speed estimates provided under the Broadband Speeds Codes are given in the form of a 20th to 80th percentile range. A range is useful in this context because the Broadband Speeds Codes require individual speed estimates for specific lines and these estimates will vary depending on the characteristics of the line. These estimates are based the speeds received by consumers with similar lines and, as the range covers 60% of these consumers, it gives the speeds that a majority of consumers with similar lines receive.⁸ A range at point of sale can therefore give consumers more targeted information on what performance they can expect from a particular service at their own address.
- 1.13 We recognise that using a point estimate in advertising and a range at point of sale means that consumers will not receive the same information across these formats. Advertisers may also want to notify consumers that they will receive an estimated speed range at point of sale (in accordance with the Broadband Speeds Codes).
- 1.14 We note that advertising and point of sale information serve two different purposes for consumers. Consumers use speed claims in advertising as a comparison measure and as an expectation of what the product can deliver.⁹ In contrast, the aim of point of sale information is to ensure that consumers have sufficient information about the performance that they can accept to receive from a specific package to enable them to make an informed choice prior to entering into a contract.
- 1.15 Considering these different purposes, we do not think that the use of a median point in advertising claims and a range at point of sale will inhibit consumer understanding, as:
- Advertised speeds are claims that must apply to consumers as a whole, whereas the Broadband Speeds Codes information is for an individual consumer based on estimated speeds.
 - Point of sale is a better time for providers to give tailored advice to consumers, and allows them to explain in more detail what each measure represents.

(QE24). Of those who used any type of broadband to connect to the internet at home (mobile or fixed), 52% said they did not know how to find out their speed and 13% were unsure how to do this (QE25).

http://stakeholders.ofcom.org.uk/binaries/research/statistics/2016April/Ofcom_Technology_Tracker_H1_2016.pdf

⁸ In our response to CAP/BCAP's review of broadband advertising guidelines in 2011, we recommended the use of a typical speeds range in broadband advertising. We continue to believe that speed range information is useful consumers, and note that the guidance would not prohibit the inclusion of information.

⁹ This is also considered alongside other measures of 'quality' such as capacity or coverage, and alongside the price of a product. See February 2016 *Quality of service in telecoms* report, page 4, https://www.ofcom.org.uk/data/assets/pdf_file/0025/78370/jigsaw_quality_of_service_in_telecoms.pdf

- If a range were adopted for advertising claims, consumers would still receive a different range measure at point of sale (i.e. one for their own service rather than a national figure). We believe that a median speed in advertising will lead to less confusion than using two different ranges, one in advertising and one at point of sale.

Qualifying information on speed claims is needed in adverts

- 1.16 We support recommendations that qualifying information on speed claims be included in adverts, and that speed-checking facilities be promoted in adverts wherever possible.
- 1.17 We agree with CAP/BCAP that any terms used to qualify a quoted speed, for instance “average”, would need to be explained in the advert to reduce confusion and aid consumer understanding and transparency.¹⁰
- 1.18 We further note that any claims around service speeds used in advertising will always be limited in their relevance to an individual consumer, due to the wide number of factors that can affect connection performance. As CAP/BCAP’s consultation states, individual consumers will only receive the most accurate indication on their likely speeds by checking directly with providers or third party websites, for instance Ofcom’s own broadband speed checker.¹¹ We therefore support statements urging consumers to check their speeds independently or with providers.

Consumers should be aware of other measures affecting broadband performance

- 1.19 We would support recommendations in the guidance seeking to make clear that speed is not the only measure affecting broadband quality of service. It is important to encourage consumers to consider other sets of performance measurements to understand the overall performance of individual ISP packages.
- 1.20 Other metrics can be used to evaluate the performance of fixed broadband services are summarised in pages 29 to 50 of the UK Home Broadband Performance Report.¹² The report includes information on how these measures impact on different broadband packages.

Scope of CAP/BCAP guidance

- 1.21 We note that CAP/BCAP’s consultation applies to guidance for business-to-consumer adverts, and asks whether the scope of the guidance should be extended.

¹⁰ We note that the ASA’s consumer research suggests there is the potential for consumer confusion about what the term ‘average’ might mean (page 16-17 of CAP/BCAP’s consultation).

¹¹ Information on Ofcom’s broadband and mobile checker apps can be found here on our website

<https://www.ofcom.org.uk/phones-telecoms-and-internet/advice-for-consumers/advice/ofcom-checker>

¹² https://www.ofcom.org.uk/data/assets/pdf_file/0015/100761/UK-home-broadband-performance,-November-2016-Technical-report.pdf

- 1.22 Many businesses consider their broadband service an essential,¹³ and small businesses often purchase residential broadband services. It may be more difficult for them to understand and compare residential and business services if they are advertised on the basis of different speeds (i.e. peak-time speeds for residential and maximum speeds for business).¹⁴ Businesses would therefore also be likely to benefit from better advertised information on broadband speeds.
- 1.23 The extension of this guidance to standard business-to-business/non-residential broadband services would also bring the guidance in line with the Broadband Speeds Codes, which cover residential services and most business services.¹⁵
- 1.24 However, the business market is different to the residential market, being more fragmented and with a greater number of small providers offering more specific services.¹⁶ In addition, the choices that businesses make about their broadband service can be driven by different factors to residential consumers, for instance reliability or upload speeds. These differences may have implications for how business-to-business services are advertised, and guidance in this area may require more flexibility.

¹³ 81% of SMEs said that fixed internet services were vital or very important to their business. See *SME experience of communications services: research report*, figure 31, page 28:

https://www.ofcom.org.uk/_data/assets/pdf_file/0016/100771/comparing-service-quality-smes.pdf

¹⁴ See page 90 of the *SME experience of communications services: research report*. Only 67% of SME internet-users said they had a business-specific contract:

https://www.ofcom.org.uk/_data/assets/pdf_file/0030/96348/Ofcom-SME-consumer-experience-research-2016-Report.pdf

¹⁵ The Business Code does not cover more specialised or bespoke business services, for instance leased lines.

¹⁶ See Ofcom's report on broadband services for SMEs for further information:

https://www.ofcom.org.uk/_data/assets/pdf_file/0027/37755/bb-for-smes.pdf